

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-565 (Sub-No.14X)

NEW YORK CENTRAL LINES, LLC—ABANDONMENT EXEMPTION—
IN MONTGOMERY AND SCHENECTADY COUNTIES, NY

Decided: April 27, 2004

By decision and notice of interim trail use or abandonment (NITU) served on April 23, 2003, a 180-day period was authorized for the New York State Office of Parks, Recreation and Historic Preservation (New York) to negotiate an interim trail use/rail banking agreement with New York Central Lines, LLC (NYC) for approximately 6.3 miles of railroad extending from milepost QGW 159.6 to milepost QGW 165.9, between South Amsterdam in Montgomery County and Rotterdam Junction in Schenectady County, NY. At the request of NYC, the negotiating period under the NITU was extended by a decision served on October 16, 2003. The extension expired on April 21, 2004.

On April 20, 2004, CSX Transportation, Inc. (CSXT), on its own behalf and that of NYC, filed a request for an extension of the negotiating period until October 21, 2004. CSXT states that the additional time is needed because it has been unable to finalize the trail use negotiations with New York.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). An extension of the negotiating period will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the negotiating period will be extended to October 21, 2004.¹

¹ Although the request slightly exceeds the customary request of 180 days, the Board has granted such requests in the past. See, e.g., Southern Pacific Transportation Company—Abandonment Exemption—in Jackson, Victoria and Wharton Counties, TX, STB Docket No. AB-12 (Sub-No. 162X) (STB served May 29, 1996).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended until October 21, 2004.
3. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary